



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,545	10/02/2003	Eric Chao Xu	ANDRPR/385/US	9559

2543 7590 10/08/2008

**ALIX YALE & RISTAS LLP**  
750 MAIN STREET  
SUITE 1400  
HARTFORD, CT 06103

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 10/08/2008

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b> 10/677,545	<b>Applicant(s)</b> XU, ERIC CHAO	
	<b>Examiner</b> DENNIS CORDRAY	<b>Art Unit</b> 1791	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 24 July 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and **relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

Regarding item 6, Claims 12-16 and 30-34, which were rejected in a separate rejection from the others, have been treated under the discussion of the rejection of claims 1-11, 18-23, 28-29, 36-39 and 42-52 rather than under a separate heading. In addition, the statement of the rejected claims should not include claim 39 because the claim has been cancelled.

Regarding item 7, in the listing of claims, claim 38 includes an apparent amendment. It is noted that the amendment was entered in the claim amendments submitted 12/03/2007.

The argument against the rejection of Claims 12-16 and 30-34 recites "These claims were rejected under 35 U.S.C. 103 on the basis of Haynes, Prusas, and Cannell (Haynes, Cannell and Prusas?)..." In answer to the query, the rejection states that the claims are unpatentable over "Haynes et al, Prusas and Cannell et al, as applied to Claims 1-2 and 21-22 above, and further in view of..." making it clear that the references Haynes et al, Prusas and Cannell et al are intended to be applied as used previously.

**Continuation Sheet (Patents and Trademark-462)**

/Steven P. Griffin/  
Supervisory Patent Examiner, Art Unit 1791

/Dennis Cordray/  
Examiner, Art Unit 1791

**Application No 08/112,233**

U.S. Patent and Trademark Office  
PTOL-462 (Rev. 7-05)

**Notification of Non-Compliant Appeal Brief (37 CFR 41.37)**

Part of Paper No. 20080929